



Sen. Antonio Munoz

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1 AMENDMENT TO SENATE BILL 1738

2 AMENDMENT NO. _____. Amend Senate Bill 1738 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Local
5 Community Rail Security Act of 2007.

6 Section 5. Findings and Purposes.

7 (a) The General Assembly finds:

8 (1) The safety and security of community facilities
9 will be enhanced if rail operators in the State provide
10 first responders with adequate information about
11 facilities and safety plans.

12 (2) The threat of sabotage, terrorism, and other crimes
13 to rail facilities which transport hazardous materials is
14 real and has been documented by countless studies at all
15 levels of government.

16 (3) Our State's first responders lack adequate

1 knowledge of the facilities of rail operators in the State
2 and emergency plans for those facilities, if those plans
3 exist, that would allow our first responders to react
4 quickly and effectively to an emergency.

5 (4) Studies at all levels of government have
6 demonstrated that the employees of rail operators in the
7 State, and others who work on the facilities of those rail
8 operators, are untrained to prevent acts of sabotage or
9 terrorism or other crimes, are required to engage in
10 practices which heighten the risk of those acts or other
11 crimes, and lack the equipment to respond to those acts if
12 they should occur.

13 (b) It is the purpose of this Act:

14 (1) To protect those who use community facilities from
15 acts of sabotage or terrorism or other crimes directed at
16 rail facilities in the State.

17 (2) To provide first responders with information about
18 the facilities of rail operators in the State, and the
19 procedures of rail operators in the event of sabotage,
20 terrorism, or other crimes to those facilities.

21 (3) To ensure that rail employees have the proper
22 training, communications equipment, and procedures to
23 prevent acts of sabotage or terrorism or other crimes and
24 to respond in the event of those acts or other crimes;

25 (4) To require that rail operators in the state have in
26 place plans to respond to acts of sabotage or terrorism or

1 other crimes, that rail operators communicate those plans
2 to first responders, and that rail operators observe
3 practices that will minimize the risk to community
4 facilities.

5 Section 10. Risk assessment.

6 (a) Not later than 180 days after the effective date of
7 this Act, every operator of rail facilities in the State shall
8 provide to local and State law enforcement personnel, emergency
9 personnel, transportation officials, and other first
10 responders a risk assessment of all rail facilities in the
11 State. The risk assessment shall describe:

12 (1) all facilities and their functions;

13 (2) the types of cargo that move through those
14 facilities;

15 (3) any hazardous cargo that moves through those
16 facilities, including approximate amounts of that cargo;

17 (4) any storage of hazardous cargo in rail facilities;

18 (5) the distance from rail facilities that transport or
19 store hazardous cargo to community facilities such as
20 schools, hospitals, nursing homes, and other sensitive
21 community facilities;

22 (6) a description of the practices of the rail operator
23 that prevent acts of sabotage or terrorism or other crimes
24 on rail facilities;

25 (7) all training programs that the rail operator

1 requires for its employees;

2 (8) the emergency response procedures of the rail
3 operator to deal with acts of sabotage or terrorism or
4 other crimes;

5 (9) the procedures of the rail operator to communicate
6 with local and State law enforcement personnel, emergency
7 personnel, transportation officials, and other first
8 responders in the event of acts of sabotage or terrorism or
9 other crimes.

10 Section 15. Infrastructure protection from acts of
11 sabotage or terrorism.

12 (a) Not later than 360 days after the effective date of
13 this Act, all rail operators shall have in place a program to
14 protect rail infrastructure in the State from acts of sabotage
15 or terrorism or other crimes, which shall be called an
16 infrastructure protection program.

17 (b) The infrastructure protection program shall provide
18 specifically for the security of critical infrastructure.
19 Critical infrastructure shall include all points of
20 vulnerability of the rail system that handle hazardous cargo,
21 such as bridges, tunnels, and signal systems. For critical
22 infrastructure, the railroad operator shall:

23 (1) provide notice to State and local law enforcement
24 personnel, emergency personnel, transportation officials,
25 and other first responders of the location, size, function,

1 and importance of the critical infrastructure;

2 (2) provide and describe methods of ensuring the
3 protection of critical infrastructure from acts of
4 sabotage, terrorism, or other crimes, which methods shall
5 include, at a minimum, 24-hour surveillance, monitoring,
6 and protection of those facilities;

7 (3) provide training to personnel of the railroad
8 operator to ensure that the railroad personnel are trained
9 and equipped to prevent acts of sabotage or terrorism or
10 other crimes and to respond in the event of such acts or
11 other crimes.

12 (c) The infrastructure protection program shall include
13 inspection of all rail facilities, including rights of way,
14 yards, and other facilities, that handle hazardous cargo that
15 moves within 15 miles of community facilities, such as schools,
16 hospitals, nursing homes, and other sensitive community
17 facilities, on a regular basis by personnel trained to
18 determine the condition of the rail facilities and the
19 vulnerability of the rail facilities to acts of sabotage or
20 terrorism or other crimes.

21 (d) (1) Each rail operator in the State shall provide
22 to local and State law enforcement personnel, emergency
23 personnel, transportation officials, and other first
24 responders a copy of its infrastructure protection
25 program.

26 (2) The Department of Transportation shall review the

1 infrastructure protection program and shall have the
2 authority to order a rail operator to improve, modify, or
3 change its program to comply with the requirements of this
4 Act. The Department shall have the authority to fine the
5 rail operator \$50,000 per day for failure to comply with
6 its orders or this Act.

7 (e) The infrastructure protection program shall be updated
8 by the rail operator at least once every year, and the updated
9 plan shall be submitted to local and State law enforcement
10 personnel, emergency personnel, transportation officials, and
11 other first responders.

12 Section 20. Community facilities protection.

13 (a) Rail operators in the State shall observe the following
14 requirements for all facilities that handle cargo that passes
15 within 15 miles of a community facility:

16 (1) secure all facilities that handle or store
17 hazardous materials by providing adequate security
18 personnel;

19 (2) store hazardous materials only in secure
20 facilities designed for such storage, which shall not
21 include rights of way;

22 (3) never leave locomotive equipment running while
23 unattended or leave any unattended locomotive equipment
24 unlocked;

25 (4) have adequate personnel qualified to operate

1 trains available to assist, replace, or relieve train
2 operators who need assistance;

3 (5) ensure that the cabs of occupied locomotives can be
4 secured against outsiders who threaten hijack, sabotage,
5 or terrorism;

6 (6) ensure that all employees connected with rail
7 facilities that transport hazardous materials within 15
8 miles of a community facility receive training related to
9 security, shipment of hazardous materials, and terrorism
10 prevention at least once every 12 months.

11 (b) The Department of Transportation shall have the
12 authority to fine any rail operator or any contractor covered
13 by this Section up to \$50,000 per day for failure to comply
14 with this Section.

15 Section 25. Communications. Each rail operator in the State
16 must provide communications capability:

17 (1) to alert local and State law enforcement personnel,
18 emergency personnel, transportation officials, and other
19 first responders in the event of sabotage, terrorism, or
20 other crimes, and railroad radio does not satisfy the
21 requirements of this Section;

22 (2) to provide bridge tenders on moveable bridges the
23 ability to alert local and State law enforcement personnel,
24 emergency personnel, transportation officials, and other
25 first responders in the event of sabotage, terrorism, or

1 other crimes; and

2 (3) to notify rail workers of the local or national
3 threat level for the rail industry.

4 Section 30. Coverage. This Act applies to rail operators,
5 any contractors or subcontractors working on the facilities of
6 the rail operator, and any other individual or corporation
7 performing work on rail facilities in the State.

8 Section 35. Prohibition on punitive action.

9 (a) No rail operator or any other person covered by this
10 Act may take punitive action of any kind against an employee
11 who reports violations of this Act.

12 (b) An employee subjected to punitive action in violation
13 of this Section may seek damages in the amount of not more than
14 \$1,000,000 from any employer who takes that action, in addition
15 to other remedies, such as back pay, reinstatement, and other
16 damages.

17 Section 40. Application. This Act applies to the rail
18 operator, any contractors or subcontractors working on the
19 facilities of the rail operator, and any other individual or
20 corporation performing work on rail facilities in this State.

21 Section 97. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes."